

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

PATRICIA VALDOVINOS,

Plaintiff,

No. 1:12-cv-824-PA

v.

**ORDER**

ANNA MARIA MANOR, LLC,

Defendant.

**PANNER, J.**

In this employment discrimination action, the jury found for defendant Anna Maria Manor, LLC. Based on the jury verdict, this court issued a judgment dismissing the claims of plaintiff Patricia Valdovinos.

Defendant now moves for an award of costs and attorney's fees. I deny the motion for attorney's fees and grant the motion for costs.

**DISCUSSION**

**I. Defendant Is Not Entitled to Attorney's Fees**

Plaintiff brought claims under Title VII and under state

law. Defendant now seeks \$50,000 in attorney's fees under Title VII, 42 U.S.C. § 2000e-5(k).

This court has discretion in determining whether to award attorney's fees under Title VII. EEOC v. Bruno's Restaurant, 13 F.3d 285, 287 (9th Cir. 1993). The court may award fees to a prevailing defendant "'upon a finding that the plaintiff's action was frivolous, unreasonable, or without foundation, even though not brought in subjective bad faith.'" Id. (quoting Christianburg Garment Co. v. EEOC, 434 U.S. 412, 421 (1978)); see also Harris v. Maricopa Cnty. Superior Court, 631 F.3d 963, 974-75 (9th Cir. 2011). The Supreme Court has cautioned that courts should not conclude that simply because a plaintiff ultimately lost a civil rights claim, the claim must have been without foundation. Awarding fees based on hindsight "could discourage all but the most airtight claims, for seldom can a prospective plaintiff be sure of ultimate success."

Christianburg Garment, 434 U.S. at 422.

Here, I denied defendant's motion for summary judgment. At trial, I concluded that plaintiff's Title VII claim should go to the jury. Plaintiff's Title VII claim was not frivolous, unreasonable, or without foundation. I deny defendant's motion for attorney's fees under Title VII.

## **II. Defendant's Bill of Costs**

The prevailing party is entitled to costs "unless the court otherwise directs." Fed. R. Civ. P. 54(d). The court has broad discretion to allow a prevailing party to recoup costs of litigation, but the court may not tax costs beyond those authorized by 28 U.S.C. § 1920. See Frederick v. City of

Portland, 162 F.R.D. 139, 142 (D. Or. 1995).

Here, defendant's requested costs<sup>1</sup> are authorized by § 1920. I award defendant its requested costs.

**CONCLUSION**

Defendant's motion for an award of attorney's fees (#67) is denied. Defendant's bill of costs (#69) is granted and defendant is awarded \$1,257.88.

IT IS SO ORDERED.

DATED this 22 day of May, 2013.

  
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OWEN M. PANNER  
U.S. DISTRICT JUDGE

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<sup>1</sup> The conclusion of defendant's memorandum requests \$1,156.09 in costs, apparently because of a failure to include \$101.79 in photocopy costs for the BOLI and EEOC files.